2: Hulstaert
595

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/For information concerning polygamy among the Nkundu, see category 116, pp. 25, 38-44, 220, 224-225, 235, 241, 252-253, 283, 308-309, 315-318, 320-352, and 481./

585 unjust in itself, it certainly becomes so if it is considered a penalty
584 inflicted for the rupture. For the indemnity is restricted to the man,
174 whether or not he is in the wrong. Furthermore, to accept an indemnity
177 even when the engagement is broken because of the woman tends to favor frauds and real swindles on the part of the woman and her parents, in short a kind of traffic in women.

It is also evident that the rich (polygamists) suffer much less
[585] from the innovation than do monogamous men, especially those who
[174] adopt monogamy as a principle and more especially the Christians, who do not condone divorce. Thus I am of the opinion that the desire to defend polygamy against the doctrine of the missionaries is not entirely unrelated to the transformation of this custom.

000 All these considerations show that the question is highly complex and that it would be better if the ancient custom were restored.

If the breaking of the engagement is due to wrongs, the new custom could perhaps be tolerated, though it is not without serious dangers, but the indemnity should be imposed exclusively on the party at fault. Furthermore, the wrongs would have to be serious, and on the other hand, the indemnity would have to be, not in the nature of a forfeit, but of a payment of damages commensurate with the extent of the damage suffered and the seriousness of the wrong. And here those cases should especially be considered where the breaking of the engagement is accompanied by proceedings of a vexatious and insulting nature. And though it is a very delicate task to evaluate all these elements, we must not forget to take them into account.

It seems to me that the ancient law must still be maintained when the engagement is broken simply because of a change of feelings for which neither party is to blame, if such a case occurs. For it is better not to innovate than to innovate too fast. [128]

Article IV. Walo -- Bombuluku

583 The walo or bombuluku is the bulk of the bride price paid for a marriage. Between the payment of the ndanga and that of the walo,

583x payment of the bride price with the bosóngo as he was committed to do through the payment of the ikulí and the ndanga. If he does not, the bond between him and his father-in-law is automatically broken, and consequently he is unable to obtain another wife to replace the deceased, and he loses the rights over one of his own daughters. Actually, we will have to come back to this question in Chapter IX, Article IX, 2.

These rules show how great a difference exists between the walo and the bosóngo: in the one case, upon the death of the woman prior to the payment, an indemnity is imposed for a transgression in the eyes of the law; in the other, there is a transaction to stabilize the financial rights of the clans involved.

From all the above considerations we may conclude that because of the special nature of the payment, the bosóngo is very important for the stability of the marriage and the social position of the woman's clan. But from a legal point of view it is far less important than the walo, through which a woman becomes truly [164] a wife; for the payment creates no new social relationship either between the spouses or between the husband and his in-laws.

Article X. Purpose of the Bride Price

583x 607 Theoretically, the bride price is meant to procure a wife for one of the members of the family that has received it.

The woman who is married thanks to the bride price paid for another is called the latter's nkita. It seems to me that this word is etymologically related to nkitó, "profit, benefit" (the verb is -kitola). In the final analysis, both words may be derived from the root -kit, "to become."

[164] A synonym of nkita is bongíli (bongíji); it is used primarily by the Inkóló but it is also known, though seldom employed, by the other tribes.

The woman whose bride price has served to procure the nkita is the latter's nkóló (literally, "mistress"). The Inkóló as well as the Bolongí also call her by the more tactful name, nyangóngíji, "mother

583 607 [595] of the bongíji." (1)

1. This term also designates the wife of a polygamist who has brought along one of her relatives as co-wife; she is the nyangôngili [sic] of the latter. (See Chapter VII, Article IV.)

For "to obtain a nkita" the Nkundó say -umba nkita, literally, "to fell a nkita," as one fells a tree or an adversary. Or they may say -bâta nkita, "to possess a nkita" (umba or bâta so-and-so, la nkita). "To become a nkita" would be rendered as -kwé nkita, "to fall into being a nkita."

583 596 The hierarchy of those entitled to the bride price is based on the general hierarchy of family members, which gives precedence to the older generations and, within each generation, to the older members. Consequently, as long as a member of the family having the title of isé (father) is unmarried (unless he is physically or mentally incompetent), no bǒna (son) is entitled to a bride price, even if it is that of his own sister. Within the same generation, the older members have precedence over the [165] younger ones, but boys have priority rights to the bride price of their uterine sisters. (1)

1. For limitations and exceptions to this right, see Chapter IV, Article II.

It occurs quite often, and was even more frequent in the past, that the person entitled to the bride price is still too young to get married, either in reality or in the opinion of his "fathers." (2) The

2. See ibid.

bride price is consequently used for the benefit of another member of the family. The creditor reaps the benefits later in the form of inheritance.

[602] Even if the woman or women meant for him should die or be taken in slavery, he can obtain the bride price of a cousin to which

586x on his own authority, for the offense was considered very serious.
584 We can assume that the reason for this rule was to allow time for
[567] the woman's family to intervene and keep their daughter from becoming a slave by refunding the bride price paid for her.

c) In exceptional instances an exasperated husband resorted to the immolation of his wife when someone died. People cite the case of Bengóngó of Bongilá (Besombó, Bombwanja), who had his wife, Litúli of Bontole, decapitated at the ikwel at the death of his father, Bengóngó bya Yese.

If the woman had children old enough to intervene on her behalf, her husband could be prevented from carrying out his violent intentions. The proverb says, Mbótsi ntáwáká, "a mother
[539] does not perish." The husband also abstained if the woman had
● [595] a co-wife (ebísa) who was her sister or other close relative -- either out of a feeling of shame, [385] or out of fear of undesirable repercussions. Sometimes, when a husband was caught between his wish to use the etáka and his shame or his fear of the ebísa, he hid
[607] the wife who was confined by this fork. Preferably, he asked a brother-in-law to give her hospitality. In that way he got around the difficulty to a great extent, because through the law of exogamy such an arrangement placed the wife in another village, sometimes a considerable distance away. This practice was called isángyá; tómba walí isángyá.

Instead of resorting to the procedures listed, a husband could
586x also place his wife in the hands of the ndonga. However, it was a
584 very unusual thing to do. The natives maintain that such action was due to a lack of affection for the wife, together with the husband's certainty that he could recover his valuables -- either because he was assured that his father-in-law was well disposed toward him (and would reimburse him or provide a replacement), or because he knew he could use the ikákelo.

As we have said, direct repudiation was extremely rare. Here we are not speaking of repudiation caused by a wife's incorrigible misconduct -- which we have just discussed -- but of repudiation against the wife's wishes. If it did occur the husband was expected to hand her over to the ndonga, and the latter, seeing

421 have seen them as money transactions. We have obtruded our point
613 of view and destroyed the whole legal system of the natives. It is through our materialization of those securities that we have lowered the native woman to a plaything of money and a piece of merchandise.

586 As for the two outgrowths of the native system, divorce and polyg-
595 amy, neither is inherent in the legal system as such. They are only abuses which have taken root and which clash with the principles of the native law itself. By its nature, native marriage is also indissoluble, and polygamy has only been able to exist through a popular confusion between paternal and marital law.

4. Legal Power in the Clan

613 In Nkundo society all individuals do not have equal rights or powers,
627 as in the Napoleonic law books, /154/ but the natural rights concerning people are still completely recognized. All value and power comes from God, through the ancestors. Those who are nearest to God are thus the highest in position, his first representatives. There is no question of absolutism or despotism. Just as the blood is divided among all clan members in a descending line, so also are authority and legal power. They are one as a legal entity in relation to the outside world; nevertheless, each member takes part and has a vote in the internal administration of justice, so that, when clan interests are discussed and dealt with, each member may sit in the place accorded to him and take part in decisions. In a legal sense there is, therefore, no question of a separate family council, which would assist the clan leader, but all decisions are made communally.

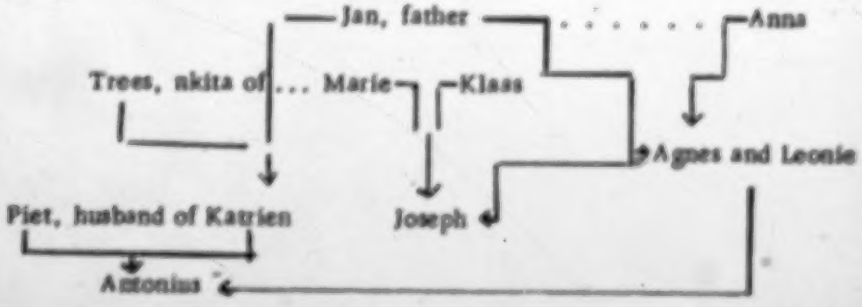
594 A single exception to this does exist, namely, that which gives the
627 head of the nuclear family legal power over his wife and children, and then only with the acknowledgment and approval of the clan. Differences between autonomous clans are settled by the clans involved, a sort of international court of law where friendly clans may also be brought in as arbiters.

627 Such an arrangement made the court absolutely "paternal." The whole procedure was one of a reconciliatory character, which resorted to coercive measures only when necessary, and did its utmost to save the honor and the welfare of the involved clans, and to compensate for, to restore, and to prevent further offenses.

583 searching for old disputes and old arguments about wives to get a wife.
604 And then they were still not always successful; their youth itself was
against them here and robbed them constantly of the little that they
464 had saved for that purpose. The means for getting money, such as
lances, knives, arm and foot bands, were extremely scarce. The
Blacks do not know of workers or servants, and if one of those poor
souls presented himself at the home of one who was better endowed by
fortune and offered to chop wood for him, to lay out a manioc field,
or to build a house for him, to gather straw and bamboo in the forest
for that purpose, then the inborn laziness of the Negro would require
long months to complete that work. As salary, the worker received
only a few bakonga (copper arm of leg bands); these he already owed
to the owner for having shown too much inclination for one or another of
589 his wives. The result of this was that many young men remained with-
out a wife and that those who were favored by chance, that is to say,
595 had many children of the female sex in their family, each had several
562 wives. I consider this a primary cause of polygyny. The woman had a
relatively high monetary value and represented capital. Thus, it did
not happen that anyone gave his daughter or sister to another for
nothing, just as among us it does not happen that a farmer gives his
cow or horse to a poor devil for nothing.

583 If the father or brother sold a daughter born of the nkita of his
604 daughter or sister -- a right that general custom gave him and which
603 usually occurred, since the children of the female sex were sold very
young and the boys, the rightful claimants or owners, in that case were
still very young -- this was done in order to buy another wife. The rights
of the children shifted then as follows:

[338]



583 consists of a beautifully fashioned native knife, or a lance, or
584 mitako [copper wire used as currency]. In some areas, it was the
[536] polygynist who attended the mother at the birth of the daughter. He had the wood gathered, water brought, and food prepared. If, then, the expected child was a boy, the security was usually returned, and the contract declared null and void. If, however, the one who had given the security was a village chief or a man of importance, then the father of the child tried to give him another daughter. The father had, for instance, at an earlier time given a daughter to another man of much less importance. In the above-mentioned case, he would give back the bride price received, take his daughter back, and give her to the polygynist from whom he expected a larger bride price.

583 Sometimes too the boy was taken by the polygynist and remained in his family until the father could trade a daughter for him.

593 While very young and still a child, the little daughter was
591 installed in the harem of the polygynist. She was brought up there, together with other children of her age and status; or rather, she grew up there in the midst of those heathen customs without any upbringing.

595 The composition of the harem of a polygamist:

The first wife was called the Bomatsa; she preceded all the other wives in rank, and in the absence of the polygynist, she was the mistress of the harem.

The second wife was called Ekila; she was the most loved and preceded all the remaining wives. She was also called Nkonda.

The third wife was called Bolumbu. At the appointment of the Bolumbu, a certain ceremony took place, and the wife was clothed with an animal skin. The Nku, a sort of patriarch and
[202] magician, sometimes had three or four Bolumbu who served as
[121] messengers to other villages. In this capacity they had special privileges. For instance, to attack a Bolumbu was a reason for declaring war.

[533] The remaining women were simply women of the harem, without distinction.

595 In the area of Monjoku, among the Bolee [Bole], the first wife was called Nkisa, with the same rank as Bomatsa. The second

595 wife was called Lonkata. This was, however, more a category, for there were sometimes four Lonkata in a harem. The rest were ordinary wives. Among the Ekonda, the first wife was called Nkumokolo, just like the Bomatsa. The second wife was called Ekila or Nkonde. The remaining wives were the ordinary wives of the harem.

595 488 The first wife, Bomatsa, always remained at home and never left the harem. The second, Ekila or Nkonde, accompanied the polygynist everywhere; she was at his side on all his trips. The Bolumbu usually went completely alone to do errands in other villages.

595 These old customs of priority among the wives are now gradually beginning to disappear.

684 It was forbidden under severe penalty to have relations with the first, second, or third wife of the polygynist. The penalties were death, slavery, or a large fine.

This was their law concerning adultery, enforced with severe punishment.

595 837 The ordinary wives of the harem were less strictly guarded. This often depended on the jealousy or indifference of the polygynist. Anyone who had relations with these wives had to pay a fine, or rather, a price of prostitution. Since the wives were almost all in the possession of the polygynist, there were naturally many men without a wife. These, then, often had relations with the ordinary wives of the polygynists. Also the sons of the polygynist had relations with them; the polygynit himself sometimes even had relations with the ordinary wives of his neighbor. This was the bad consequence and the immorality of polygyny.

595 586 It is easy to understand that the ordinary wives of the polygynist, having relations with others, often left their husband, or rather, their master in order to go to another. The ordinary wives constituted the largest number. It is because of this that one now finds many women who have had three or four, sometimes even seven, different husbands in succession. Among some tribes, [534] the Ekonda among them, they were stricter: a wife who had already left her husband or master two or more times was considered to have little worth.

567 595 The female slaves who were taken in war were given by the polygynist to his male slaves as wives. They could also be installed in the harem among the ordinary wives. Their children could have the same rights as the other children of the polygynist

000 the same rights as the other children of the polygynist.

595 The polygynist always sought to increase the number of his
556 wives, for his prestige rose and his fortune increased in that manner.
593 If anyone in civilized lands seeks to enlarge his fortune, this is done, people say, in order to insure the future of his children. The native thinks little about that; his primary idea is to enjoy himself and to surpass others in prestige and esteem. As far as the future of his children is concerned, there are polygynists who possess twenty or thirty wives or even more, and sometimes they have only one or two children. Also it is little in keeping with their notions to care for the future; he who is still alive tomorrow must take care of
595 tomorrow then, so they reason. On the contrary, instead of caring
593 for his children, the polygynist often took great trouble to obtain a
584 wife for his son. The son, however, was not yet the owner of his
606 wife; it was, so to speak, only a loan. Not until after the death of his father did he become owner. In some districts, when the father had obtained a wife for his son, he first kept this wife for some time for himself. Only after a few months did he give her to his son. In
595 other districts, when the wife was pregnant by the son, he was obliged
593 to send her for a few days to his father. He was not allowed to bear
606 the honor of fatherhood alone; his father must share that with him.
842 The father reserved for himself the honor of naming all of the chil-
551 dren of his children. In some areas of the Congo, morals were so
835 low and common that the father even kept his own daughters in his harem. This did not occur in Equatorial Africa, but there was a custom that was not much better. The magician was sometimes
583 consulted about the bride price which the father tried to get for his
791 daughter, or the brother for his sister.

The magician then gave them the advice that they themselves should first have relations with their own daughter or sister. This custom existed almost everywhere in Equatorial Africa.

583 [535] Bride Price. In general, the daughter was given in marriage upon payment of a bride price. The father had little choice of the future husband of his daughter. The one who guaranteed the most goods in payment was certain to get her. Since, in most cases, the little daughter had not yet arrived at the years of maturity, there was naturally no question of her consent. The bride price was not paid all at once, but gradually during the years while the daughter grew up. Since the daughter was given without her consent

000 [547] Unfortunately the system was not continued. Also, it must not be said that it would be unjust to lower the price of the women. Rather, injustice would thus be redressed, a degenerate custom be improved. Through the present system, ever more injustice is committed and suffered.

583 595 A few polygynists would suffer some material loss through the lowering of the price of the women, namely, by receiving less for one woman than they (sometimes) paid for them, for they inherited most of the women. But they are also the ones who are responsible for the irregular situation. In a large part of the district, the polygynists are by far the minority of the population. They are the ones who are hostile to the Colonial Administration. They are in possession of the women and have a monopoly on them. They fix prices which a young man can almost never pay, namely, two nkesi at least.

583 The difficulties for Christian marriages become daily still more difficult. This is true for the marriages already entered into and for the future marriages.

583 428 426 [465 511] The bride price to be paid for the wife ought to be such that every young man can pay that sum with his own money, with the money that he has earned himself by his work. This sum cannot be high, for the ordinary working man in the Congo, who makes up the large part of the population, does not earn much more than what he needs for board and clothing. Therefore to pay an excessively large sum as a bride price forces him to borrow and to run up debts among his relatives and friends. The result of this is that the system of the Nkita goes over unnoticed into the Christian marriages, and the woman remains an object for inheritance. Indeed, when the man dies the creditors will come, namely, those who have loaned him money -- and demand the wife. The disputes over the bride price then begin anew, and they will again give the wife in marriage in return for a new bride price. Thus, there is no end to it. The wife, the mother, will never achieve any rights but will always remain an object of inheritance. There has been talk about declaring the widow free at the death of her husband in order to prevent the inheriting of wives, but how will it be possible to [548] achieve that if the bride price is not lessened, considerably lessened? When a

7:Brown M-5 (ca. 1940) 1944 FO32 Mongo FO32
Ntomba

624 thus, *Nsono* is a very prominent figure. Still arrayed as previously described, she sits outside the ***songo*** near the road on the special stool of the ***nkumu***. Nobody may pass her with food, a humane law, considering that she must spend the day fasting. If anyone attempts to do so she catches the unlucky individual, helps herself to as much of his food as she wants, the victim meanwhile begging her to be merciful and leave him a small portion, and the booty is taken into the *ipana*. During this sentinel duty *Nsono* must still keep the parrot's feather in her mouth and maintain silence, so, in case she catches an unsuspecting bearer of food, the remonstrance and argument are all one-sided.[1] After the first day *Nsono* no longer sits outside the ***songo*** but goes from place to place in the village, choosing spots where people may least expect her, hoping thus to reap a bigger harvest for her pains. This is kept up for eight days, which comprise two Tumba 'weeks' of three days' work and one of rest. The rest-day is appropriately named ***boina bo nsono*** after the duty of *Nsono* of sitting doing nothing day by day. The eight days of this ceremony over, *Nsono* lays aside her gourd and plantain stalk, which are placed at the foot of the first central supporting post [302] of the ***shanga*** on entering. She is given a fresh coating of chalk and three coloured stripes are drawn the length of her back and down her arms. She still remains close to the ***nkumu***.

[567] Various personalities are connected with the ***songo*** of an ***nkumu***. The *Bassle* is a male slave, clothed in a skin breech cloth, whose duty it is to receive callers at the *ipana* before admitting them to the presence of the ***nkumu***.

624 595 *Mpenge* is the name taken by the wife first married by the ***nkumu***. From henceforth she no longer accompanies her husband, and their cohabitation ceases unless the ***nkumu*** is willing to pay her each time the sum of one hundred rods. But the ***nkumu*** is obliged to eat all food she cooks for him even though they have a quarrel. *Mpenge* does not honour her husband with the special greeting accorded to ***nkumu***, but greets her husband and all other ***nkumu*** as she would ordinary people.[2] The second wife of an ***nkumu*** must assume the name of *Iyombo Angunda*, but no importance attaches to her position.

624 516 Among the Tumba generally, apart from the Bonginda, a woman is chosen from the ***molombe*** to bear the title *Bolumbu Itina i Ekopo* (*Bolumbu*, the 'raison d'être' of the ***ekopo***). She is, it would seem, a symbolical figure, a reminder that the ***ekopo*** owes its existence to the ***molombe*** of which this woman becomes the titular head. *While the **nkumu** is still in seclusion the chosen woman is taken to the open space* between the *ipana* and the row of sons' houses, known as the ***nanda***. Here, in the presence of the assembled crowd she is praised by being addressed, '*Bolumbu Itina, bototo!*' and the crowd exclaims, '*Bwoo!*'[3] Strips of leopard skin, about eighteen

[845] [1] It is interesting to note that there are some exceptions to those who may be caught and robbed by *Nsono* during her eight days of watching. No member of the ***molombe*** may be thus treated, twins and their parents are exempt, and also all children born to the ***nkumu*** before he attains office, these being termed ***mumi***.

[554 595] [2] Besides *Mpenge*, a mother of twins is also exempt from according ***nkumu*** special salutations, and among some groups the father of twins is also exempt.

[3] This ceremony gives husbands of any village, whether they are members of the ***molombe*** or not, the opportunity to single out a favourite wife for special honour, for at this time any woman may be given the name of *Bolumbu*, though not with the significant complement of *Itina i Ekopo*. The ceremony is similar, is performed at the ***nanda***, but besides receiving the strips of leopard skin, she must be divested of all her clothing, a new ***lombo*** and ***mpenge*** are then placed round her, and the strips of skin then attached to the new belt.